

## KEARNS SAYS HE DID IT HIMSELF

Needed No Assistance in Figuring Timber Sizes for Use Underground.

HIS MEMORY IS REFRESHED.

He Now Knows When He Moved to Salt Lake From Park City—Today's Session Uninteresting.

The affections and passions of T. Kearns were toyed with tantalizingly by E. B. Critchlow, of counsel for the Silver King Consolidated Mining company, this morning when the erstwhile senator was on the stand during the progress of the hearing in the ore stealing action now before Examiner Christy in the federal court. Mr. Kearns had been called to the stand by Judge Dickinson, of counsel for the Silver King Consolidated company, and in cross-examination by Mr. Critchlow Mr. Kearns was asked to tell what sort of timbers were used in the underground workings at the property. Mr. Kearns had replied in detail, giving the lengths in feet and inches of the several timbers required to the "set," when Mr. Critchlow asked the witness:

"Who furnished you with your information on this subject?"

Mr. Kearns affirmed that he had figured it out for himself, protesting that he had the required "intelligence" to arrive at the figures he had submitted. "No, Mr. Kearns, didn't you have some help in the matter?"

Mr. Kearns replied that he had dictated the figures to his stenographer, which was the only assistance he had. Mr. Critchlow then wanted to know whether the stenographer had helped the senator. Mr. Kearns vehemently asserted that the figures were the result of the activity of his own brain, summing it up, however, in the more pointed phrase he "done it all myself." Just as George Washington told his father when he was elected senator, when he moved from Park City to this city, when he went to Washington as the representative of the sovereign state of Utah in the upper house of the national legislative body. By some means, which was not revealed, Mr. Kearns had brushed the cobwebs from his memory and stated in court this morning that when he moved his residence from Park City to Salt Lake City was Nov. 1, 1899, or thereabouts. This is now record and will be available for future reference by historical writers.

He also affirmed that the date of beginning work in the ground now under consideration in the hearing was Jan. 15, 1899, and that when it was completed was April 30, 1899. This somewhat unusual mode of procedure, that of finishing a task before it is begun and beginning it after it has been finished yet remains to be cleared up, for it slipped by this morning and was not given attention.

MUCH TECHNICAL DETAIL.

This morning's session was largely given up to the taking of testimony along technical lines. Duncan McPherson, who was called to the witness chair when the hearing resumed. He was examined by Mr. McMillan, of plaintiff's counsel, with regard to conditions he found in the mine when he was called in as an expert at the instance of the Silver King Consolidated Mining company in 1907 and 1908. He said that at the time of his examination he did not know, and was never informed, that the Parsons store was in ground not wholly owned by the defendant company. His examination, he said, was made to determine whether or not an investment under consideration by the Parsons store would be profitable for them. Mr. Dickinson interrogated him in his re-direct examination, bringing out a wilderness of technical detail devoid of sensational statements.

Dave Shields, now timberman for the Daly Judge at Park City, but at one time employed in the Silver King, was examined with regard to work done while he was employed by the Kite company working on ground owned jointly. His examination brought out little new matter, but while he was in the chair Mr. Kearns hastily called Mr. Ellis of defendant's counsel to him, and the two had an ardent conversation in whispers. Mr. Kearns doing most of the talking and a great deal of gesticulation utterly innocent of the rules of debate. Mr. Ellis took an early opportunity to talk with Mr. Dickinson of counsel. Mr. Kearns and Mr. Keith the meanwhile talking with unusual animation. It was noted that the examination of Shields was ended. Mr. Critchlow in the cross-examination of Shields brought out the fact that he had been first asked to testify by Shifts Allen, employed by Kearns, and later by Supt. Daly of the Daly Judge.

## STICK HEATH THREW WAS A BOOMERANG

After Saying a Few Choice Things About Commission; They Will Recommend His Dismissal.

H. F. Heath, superintendent of parks, was put on the grill at a meeting of the park commission which was held this afternoon during a luncheon at the Commercial club, and it was decided that he would be discharged. His entire time has been spent, it is understood, in fighting the park commissioners. When he took steps to have the commission abolished, A. Fred Wey, chairman of the commission, declared that he would not reappoint Heath, and he has the majority of the commissioners behind him.

Through Heath's political moves he stirred up considerable trouble and induced the public grounds committee to recommend the abolishment of the park commission so that the committee would say how the appropriations made for this purpose would be expended.

Nick Byhower, who was formerly superintendent of parks, will probably succeed Heath. When Byhower was in the employ of the city before, Heath held the position of parkkeeper and made things so miserable for him that he resigned.

B. F. Redman, the new member of the commission appointed by Mayor Bransford, last week, met with the commission today for the first time and gave the luncheon at the club to the other members. Redman is also opposed to Heath for several reasons. It is probable that the board will make a recommendation today to council Monday night discharging Heath and appointing Byhower in his place.

The commission has the appointment of a superintendent of parks but Heath's dismissal will no doubt cause considerable trouble, because he has friends in the administration.

WANT BOYS TO TRY.

Notices were sent out this morning to all the schools of importance in the state for the purpose of securing a list of boys who are interested in public instruction, requesting young men to take the examination for appointment to Annapolis which will be held on Saturday, Feb. 26. The examination was postponed last week because only Edward R. Akert and John F. Peterson of Salt Lake were the only applicants. The appointment is to be made by Congressman Joseph Howell.

PLANS FOR LYNNDYL.

Alex McPherson Tells of Big Opening Under Sevier River.

The announcement recently made of the land opening at Lynndyl on April 11, by the Sevier River Land & Water company, under the provisions of the Carey act, has aroused considerable interest. Alex McPherson, manager of the project in this city, said this morning that 629,000 acre feet of water went to waste from the Sevier river last year, and the company hopes to prevent this in future.

"We have purchased from people holding old rights on the river, reservoir sites and 160,000 acre feet of water, sufficient to irrigate 75,000 acres of land," said Mr. McPherson. "The company has also filed on 3,000 second feet, or the entire floodflow of the river, and this amounts at Lemington to 629,000 acre feet, which went to waste last year. A townsite is to be opened at Lynndyl, or Lynn Junction, together with acreage tracts surrounding it. Plans have been drawn for a \$40,000 hotel, and this will be constructed at Lynndyl the coming season. The same company which developed the Twin Falls section in Idaho is back of this project, and it is bound to be a great success."

RAILROAD NEWS

WILL REBUILD OLD TRACK.

Salt Lake Route to Reconstruct Track Through Meadow Valley Wash.

As already prognosticated in The News, the Salt Lake Route will rebuild through the same Meadow valley wash where the line was so completely washed out in the great New Year's gusher. However, the new line will be located higher up, the proposition being to build a temporary track on the old reconstructed right of way. The steel bridges appear to be undamaged, there is much valuable motive power and rolling stock scattered along the line, and there are many stretches of roadbed that can be put into commission with little effort. J. Ross Clark, who gives out the information officially, thinks through communication may be reopened in 30 days.

CAR INSPECTOR KILLED.

Car Inspector Walter J. Manning of the Western Pacific road was instantly killed Monday afternoon at Wendover, by falling under the rear of work train, though just how it was not known. The body was brought to O'Donnell's undertaking rooms to be prepared for shipment to St. Joe, Mo., for interment.

REORGANIZATION PLANNED.

Three Railroads Brought About Ruin Of Banker Walsh.

Chicago, Feb. 23.—An announcement of a complete re-organization of the three railroads which brought about the financial downfall of John R. Walsh, the Southern Indiana, the Illinois Southern and the Chicago Southern railways, is expected soon. The clearinghouse which brought about the financial settlement following the financial settlement between the banks on the one side, and Mr. Walsh and the guarantors on his \$7,000,000 note, on the other.

## BROWN WILL CASE TO MOVE SLOWLY

Jury Not Yet Secured to Hear Evidence in Action of Bradley Children.

MANY HAVE FIXED OPINIONS.

Court Warns Talesmen Not to Seek to Evade Duty by Reason of Mere Hearing.

Judging from the progress made during the first two sessions of the court in which the will of the late Senator Arthur L. Brown, disowning and disinheriting the two children of Mrs. Bradley is sought to be set aside, the case will be an extremely protracted one. Of the eleven talesmen already called to the jury box, three have been excused for cause, while eight have been interrogated by one side only, and not a single juror has been accepted up to date.

The net result of this morning's session was the excusing of Hampton D. Beattie as a juror on a challenge made by Judge King. Mr. Beattie said in answer to questions by Judge Marioneaux that he had formed an opinion as to the propriety of the will, the children which it would require considerable evidence to remove, and the presumption is that this question will form one of the most important points in the case.

Justus Jungk, of the firm of Jungk & Fabian, of Salt Lake City, was the first talesman called to the witness stand. He was born in Germany and had been in this country over 30 years. He admitted that he had formed an opinion as to the competency of the late senator at the time he made the will, which is the chief element of the controversy in this case, also that he had decided prejudices as between the rights of legitimate children and illegitimate children at the time he made the will.

"Yes, sir, I would," replied Mr. Jungk. Judge Marioneaux challenged the juror for direct bias against the minor parties to the action. Judge King then asked the juror to state the challenge, on the ground that the attitude of the juror as to the sacredness of the marriage relation was that of all respecting people.

WARNING FROM BENCH.

Judge Ritchie at this point took occasion to utter a note of warning to those called into the jury box against exaggerating any opinions they might have formed as to the issues in this case. He said that mere hearsay opinions were not sufficient to warrant the attempt to evade jury duty, and that unless such opinion were grounded upon convincing evidence obtained by other than by reading newspaper stories or ordinary conversation, the opinions so formed should not be used as a means for avoiding the duty of every citizen in respect to jury duty.

Considerable difficulty was experienced by counsel on both sides in getting at the exact state of mind of the prospective jurymen, as it became evident that the intricacies of technical English were not entirely grasped by him. He maintained that his prejudice against the right of illegitimate children to inherit even though they had been acknowledged by their father, but said that he would abide by the instructions of the court as to the law in the matter.

Several tilts between counsel occurred during the examination which developed into a brief discussion of the proper attitude of mankind in regard to the marriage relation, and the respect in which that institution is generally held. Judge Ritchie indicated to counsel that such a discussion was hardly essential to the issues in the case pending, and the examination was continued.

After a further set of questions upon the same strain, Judge Marioneaux renewed his challenge, Judge King again resisting. The noon hour having arrived, Judge Ritchie at this point announced a recess until 2 o'clock, with the Jungk challenge still undecided.

Up to date the talesmen examined are Hampton D. Beattie, salesman; Christian Berger, farmer; William R. Ashby, dry goods dealer; David Archer, bald, farmer; Joseph E. Davis, ice cream dealer; Louis Bateman, plumber; Henry Johnson, real estate dealer; Oliver H. Jones, farmer; John Burrows, clothing merchant; Justus Jungk, brick merchant and Edward L. Gray, clothier.

Of the above, William R. Ashby and Henry Johnson were challenged for cause and excused Monday afternoon, and Hampton D. Beattie was challenged and excused this morning. The remaining eight have yet to be taken through the paces by counsel for the defense, with the outlook that the process will be one long drawn out, and not promising for the case any early termination.

COTTON IS CHARGED

WITH GIRL'S DEATH

County Attorney Issues Complaint Alleging Murder in the Second Degree Against Cement Worker.

The county attorney issued a complaint this afternoon charging B. C. Cotton, a cement worker, with murder in the second degree. This action followed a long interview between the accused and County Atty. Job Lyon in the latter's office this morning. Cotton is accused of administering poison to Hazel, Astell of Sandy who died in this city Feb. 4, of suspicious circumstances. An analysis of the contents of the young woman's stomach by the state chemist developed the presence of morphine and several other drugs it is claimed taken by women for illegal purposes.

Cotton has a wife who for the past year has been an inmate of the Mental hospital at Provo being sent there a year ago. Subsequent to that when the couple resided in the vicinity of the cement works the police were called in by neighbors who reported that Cotton was beating his wife. Shortly after her commitment to Provo Cotton's only child was suffocated in bed. The case was investigated at the time but the fatality was believed to have been accidental.

HOLDUPS ARE HELD.

George Radcliff and Charles Murphy, two young holdups who were arrested

by the police near Bountiful on the morning of Jan. 25, after several hours' chase, were before Judge Bowman this morning on the charge of holding up and robbing George N. Hook, an O. S. L. engineer on Jan. 19. Both were ordered held to await the action of the district court and in default of \$1,500 bail were committed to the custody of the sheriff.

SHERIFF HEADED OFF.

While Taking Prisoner to Wyoming Is Served With Writ at Ogden.

While Sheriff J. E. Jones of Evanston, Wyo., was attempting to hustle George Thompson, wanted for embezzlement, out of the state, he was intercepted at Ogden and served with a writ of habeas corpus. Sheriff Jones was compelled to return to Salt Lake and the writ came up for hearing at 2 o'clock this afternoon in Judge Lewis's court.

Thompson was arrested here Monday by Sheriff Joseph C. Sharp at the request of Sheriff Jones who brought extradition papers with him. Sheriff Jones left Tuesday night with his prisoner and got as far as Ogden. He missed the train and was compelled to lay over until this morning.

When Thompson's friends learned of his arrest, Atty. Bert Olson was retained. Upon inquiry Olson found that Jones had gone with his prisoner. In an effort to locate Jones, Mr. Olson found that he was in Ogden and took the next train. The writ was issued by Judge C. W. Morse and made returnable at 10 o'clock this morning. The writ could not be heard at that time and went over until the afternoon session.

Thompson was employed at a dairy in Evanston. It is alleged that he embezzled \$500 of the company's money and then disappeared. He was followed to Salt Lake and apprehended here while he was making preparations to leave the city.

Good Plumbing Pays.

J. W. Dudley, 430 So. 8th E. Bldg. 3013-X.

PERSONALS.

H. J. Wallace and family have removed to their new residence on Federal heights.

Martin Harkness, the well known old time mining man, is convalescing from extended illness at his home, 173 west Seventh street.

Samuel I. Davis is in the city after an absence of 10 years. He is an old time tobaccoist, interested in factories in New York and Tampa, Fla.

Eugene Giles of Ely, Nev., the new cashier of the Copper National bank of this city, arrived Tuesday evening, from Nevada, to enter on his new duties.

Mr. and Mrs. Mark W. Calder of Baker City, are visiting with relatives in this city. Mr. Calder was for years a resident of this city, but has been living in the northwest for a number of years.

Herbert B. Gee, special agent for the Pacific Surety company of San Francisco, is a Salt Lake visitor. Mr. Gee is a popular member of the San Francisco lodge of Elks and while here is a guest of Lodge No. 85. Mr. Gee is in Salt Lake on important business matters and will remain for a day or two.

C. L. Rhodes of New York, advance agent of the Laymen's missionary movement arrived today, from the east for a conference with leading members of the city churches on the March 8-10 convention. Forty committeemen met Mr. Rhodes this noon at the Wilson hotel to talk the situation over.

M. M. Selby has returned from a two weeks' visit to his former home in Kansas.

J. C. Mackey, county commissioner, returned from Wyoming Tuesday afternoon where he has been for the past two weeks attending to his sheep business.

H. A. Hoel of San Francisco, with heavy mining interests at Park City

## BUS PASSENGERS

A Raymond-Whitcomb Excursion will reach this city Wednesday night and will register at the Knutsford. There are 30 people in the party.

J. W. McCombs of San Francisco and F. H. Pillsbury of Chicago, two prominent business men, are at the Knutsford.

W. B. Higgins of Portland, and E. C. Maxson, Saginaw, Mich. are at the Knutsford. Both are heavily interested in the lumber industry.

C. S. Thomas, Jr., and J. W. Finch, two mining engineers from Denver, are guests at the Knutsford, having come here to inspect some properties. Mr. Thomas is a son of ex-Gov. Thomas of Colorado.

B. B. Wiebe, P. F. Funk and Moria Funk, a party of sightseers from Aberdeen, Ida., are registered at the Knutsford.

J. R. Depp, a retired merchant of Denver, is at the Knutsford for a few days.

R. J. Comstock, a business man of Rexburg, is registered at the Knutsford today.

Jno. Jones and H. R. Christmas, having extended their interests in Wyoming, are guests at the Moxum. They came to Salt Lake to be present at the Auto show. Mr. Jones is of Evanston, and Mr. Christmas of Kemmerer.

Moxum—Mr. and Mrs. H. Jensen and N. T. Sander, Provo; Charles P. Page, Riverton; P. A. Hansen, Alta; Myrtle Brown, Payson; Theo. Engelhart, Los Angeles; Arthur F. Ward, Manager Max Egan.

New Windsor—O. C. Nielson, Fairview; J. W. Taylor, Dillon; Arthur R. Mitkin, Idaho Falls; A. M. Nelson, Tooele; J. W. Storrs, American Fork; William Boyes, Circleville.

Cullen—J. H. Boyle, Ogden; Mr. and Mrs. Milton Jacobs, Provo; Casper Schumlin, Gypsum, Colo.; L. T. Thatcher and H. F. Thomas, Logan; P. Beckstead and F. M. Mason, Ogden; Fred Erickson, Mt. Pleasant; B. R. McDonald, Price; Mr. and Mrs. J. T. Morgan, Provo.

Wilson—H. S. Montgomery, Denver; James Stephenson, Jr., Boise; A. J. Sangevin and Paul A. Fugate, Aberdeen, Idaho; T. T. Kamecke, Springfield, Mass.; T. H. Pease, Chicago.

Knutsford—M. A. Love and Fred Haines, Rockford, Ill.; L. W. Gaines and C. B. Joseph, San Francisco; Mr. and Mrs. Fred B. Griffiths, Buffalo; Mr. and Mrs. A. S. Stevens, Denver; J. L. Cooper, Chicago; Allan Bricker, Detroit; Mr. and Mrs. Jno. B. Anderson, Manhattan, Kan.

Kenyon—H. D. Foy, Omaha; Thos. H. Burton, Nephi; W. H. Hall, St. Joe, Mo.; H. B. Ames, Ogden; Mrs. V. E. Lorington, Detroit; Mr. and Mrs. Fred B. Griffith, Buffalo; Mrs. M. L. McCall, San Francisco; Mr. and Mrs. P. D. Cochran, Chicago.

Dr. H. Campbell of Logan is at the Knutsford.

Joe Streng of Ogden, one of the oldest and most successful wool buyers in the intermountain country, representing a large eastern wool buying concern, is at the Cullen. "I always read The Deseret News," said Mr. Streng, "it is the best newspaper published in the Rockies."

E. W. Dunn and Mr. Tarpey, two young business men from Boxelder county, were in Salt Lake on a land deal, Tuesday. Mr. Dunn says northern Utah is still locked in the embrace of Jack Frost. Even at the Hot Springs, between Brigham City and Ogden, where snow seldom lies more than a few hours, on account of the warmth of the ground, and sleigh-passing there in midwinter nearly always have to drag some distance through mud, the ground is frozen and covered with snow.

H. A. Hoel of San Francisco, with heavy mining interests at Park City

and Bingham, is at the Moxum, having come here to look into the present condition of the properties.

W. Kelly, a retired merchant from Hutchinson, Kansas, accompanied by Mrs. Kelly, is a guest at the Knutsford today.

George Cook of Albion, Idaho, registered at the Knutsford today, having been discharged from the Holy Cross hospital, where he recently underwent an operation for appendicitis.

Thomas Roylance, a business man from the Garden city, is a guest at the Cullen.

Joseph H. Murdock, a prominent sheepman from Heber, is registered at the Cullen.

LATE LOCALS

Seventeenth Ward—A reunion of the Seventeenth ward will be held in the amusement hall Thursday evening. The guests of honor will be those residents of the ward 70 years of age and upward to whom a supper will be served at 6 o'clock, during which toasts will be responded to, short addresses made, song and readings rendered.

At 7:30 the ward members generally will gather, when a program will be rendered, followed by dancing, social intercourse and light refreshments. A large attendance is expected, and it is hoped that some of the general and stake authorities will be present.

Dress Rehearsal Tonight—The opera, "The Dress Rehearsal," under the direction of Prof. George Carless with Miss Sybella Clayton as accompanist, occurs tonight in Whitney Hall. The production has no connection with the comedy of the same name given last night on the occasion of the Young family reunion. It is an entirely different piece and the offering of the two under identical titles is a mere coincidence.

Named as Delegates—Messrs. Jacob Greenwald, F. C. Schramm, W. M. Rash and ex-Chief Lynch are slated to represent the Salt Lake Shriners at the New Orleans convention in April. They expect to make a side trip to Cuba before returning home.

STOCK CERTIFICATES. stock certificates, bonds, and blank books of any size or style made to order. Estimates promptly furnished. THE DESERET NEWS JOB DEPT.

WESTON CROSSES NEW MEXICO LINE TODAY

Albuquerque, N. M., Feb. 23.—Edward Payson Weston spent last night at Navajo, Arizona, having covered more than 40 miles yesterday, and left that station early this morning with a four-day tour of 35 miles planned for today. Weston expects to cross the New Mexico line today and reach Manuella, N. M., before stopping for the night.

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MERCHANTS' PROTECTIVE ASSOCIATION. SCIENTIFIC COLLECTORS OF HONEST DEBTS.

Rooms 77 to 100, Commercial National Bank Bldg., Salt Lake City, Utah. Francis G. Luke, General Manager. 'Tis said, "Some People Don't Like Us."

## INSURGENTS GAIN VICTORIES

Washington, Feb. 23.—Victories of immense importance to the insurgent arms in Nicaragua are told in dispatches being received today at the state department.

Gen. Chamorro with the main division of the insurgent army has completely invaded the government troops sent out to check him and by a flank movement, has taken the city of Granada. The Chamorro family is powerful there, and the capture of the city is important.

It is inferred that Gen. Estrada, once believed to be going in the direction of Greytown, is marching to make a combination with Chamorro. The losses of the government troops have been terrible in the guerilla warfare, which has raged for the last few days. Dispatches say that after the engagement of the 19th scores of unburied dead lay upon the fields. The losses of the provisional troops were slight.

Disorder and panic are spreading through the Madriz troops and the government, all trains on the railroad east of Managua have been abandoned and the line is used only for military purposes. The situation in the surrounding country is becoming more serious for the government. The insurgents also recaptured the government steamer Victoria on Lake Managua.

Madriz, taking alarm at the spirit of unrest among the populace, which has increased every day as Chamorro's troops have been advancing, has practically declared a dictatorship over the departments of Granada, Masaya and Carazo, and appointed Julian Irias, Zevallos's prime minister, in charge of them with plenary powers.

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The magnificent collection of entire Japanese Art Exhibits direct from Japanese Government Building—also carefully selected specimens from the Chinese Emporium Exhibits at the A-Y-P. Exposition, Seattle, which received highest awards—

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